

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : William D. Morgan

Serial No. : 08/828,330

Filed : 03-28-97

For : INSULATED REMOVABLE
POND COVER

Docket No. : 1 852-002-PAT

Group Art Unit: 3621

Examiner: R. Canfield

Commissioner of Patents and Trademarks
Washington, D. C. 20231

SUPPLEMENTAL AMENDMENT

Dear Sir:

This amendment is a revision/replacement of the Amendment filed on April 22, 1999, which was a revision/replacement of the Amendment filed on December 18, 1998 and is responsive to the Office Communication mailed July 14, 1999. This is further responsive to the outstanding Office Action issued September 18, 1998. Applicant respectfully requests reconsideration and allowance of this application in light of the following amendments and remarks.

IN THE DRAWINGS

Please accept new figure 3-5. Additional markings added to previously submitted Figure 2 are shown in red.

IN THE SPECIFICATION

Page 1, after

"FIG. 2 is a top perspective view showing two full panels and parts of four other panels, starting from one edge of the pond cover on the left.",

insert

--Fig. 3 is the view of figure 2 further showing a tank or pond and aqueous solution.

Fig. 4 is the view of Figure 2 further showing an anchor.

Fig. 5 is the view of Figure 2 further showing an anchoring trench.--

Page 1 after "DESCRIPTION OF THE INVENTION", insert

--The present invention is an insulated removable pond cover which is made in sections which are held together by means of a series of grommets 5 and cables 12. The cables 12 are secured to a series of concrete deadheads or anchors 20. These pond covers are laid on site and may be secured by an anchoring trench 21. The pond cover may overlie a pond, tank or other such container 22 known to those skilled in the art. Such container 22 may hold an aqueous solution 23 or other material known to those having ordinary skill in the art.--

IN THE CLAIMS

Please amend the claims as follows:

1. A pond cover comprising:

a plurality of panel units linked together;

means for insulating said pond cover, said insulating means comprising a

generally rectangular layer of insulation wherein each of said panel

units is filled internally with said layer of insulation and is sealed at

either end and along either side by welding; and

means for linking said panel units together and securing said pond cover

in position on a pond, said linking means comprising grommets

disposed along said sealed end of each of said panel units, and

each of said panel units is linked in vertical spaced relationship to

an adjacent panel unit by at least one cable disposed through said

vertical spaced grommets and formed into a loop projecting above

said panel units, and said securing means including a second cable

which is disposed through [the] an entire row of said loops and is

anchored at either of its end to an anchoring means.

2. The pond cover of claim 2 wherein the loops disposed through the grommets

project both above and below the panel units.

→ Add 3
4. A pond cover comprising:

a plurality of panel units linked together;

means for insulating said pond cover, said insulating means comprising a generally rectangular layer of insulation wherein each of said panel units is filled internally with said layer of insulation and is sealed at either end and along either side by welding; and

means for linking said panel units together and securing said pond cover in position on a pond, said linking means comprising grommets disposed along said sealed end of each of said panel units, and each of said panel units is linked in vertical spaced relationship to an adjacent panel unit by at least one cable disposed through said vertical spaced grommets and formed into a loop projecting above said panel units, and said securing means including a second cable which is disposed through a row of said loops and is anchored at either of its end to an anchoring means.

5. (Twice Amended) A pond cover comprising:

a plurality of panels; and

means for linking and de-linking the panels comprising openings defined in the panels and substantially oval-shaped loops interconnecting the adjacent panels through adjacent openings in the panels.

6. The pond cover of claim 5 wherein the panels are rectangular.

7. The pond cover of claim 5 wherein the panels are formed of a geomembrane.
8. The pond cover of claim 5 wherein the panels are approximately seven and one-half feet wide and approximately forty feet long.
9. The pond cover of claim 5 further comprising:
means for controlling temperature.
10. The pond cover of claim 9 wherein the means for controlling temperature comprises:
insulation material sealed inside the panels.
11. The pond cover of claim 10 wherein the insulating material is sealed inside the panels by a weld.
12. The pond cover of claim 9 wherein the means for controlling temperature comprises:
a rectangular layer of insulation.
14. (Amended) The pond cover of claim 5 wherein the means for linking further comprises:
grommets circumscribing the openings.

15. (Amended) The pond cover of claim 5 wherein the openings are adjacent to edges of the panels.

16. (Amended) The pond cover of claim 5 wherein the openings of adjacent panels are in a vertical spaced relationship.

18. (Twice Amended) The pond cover of claim 5 further comprising:
means for locking and unlocking the substantially oval-shaped loops
relative to the openings in the panels.

19. The pond cover of claim 5 further comprising:
means for anchoring the cover in a desired position.

20. The pond cover of claim 19 wherein the means for anchoring comprises:
at least one tie-down cable; and
means for anchoring the tie-down cable.

21. The pond cover of claim 19 wherein the anchoring means comprises an anchoring trench.

22. The pond cover of claim 20 wherein the tie-down cable interacts with the means for linking.

23. The pond cover of claim 5 wherein the means for linking joins the panels in a partially overlapping relationship.

24. (Amended) The pond cover of claim 5 wherein the cover is supported above aqueous solutions.

25. The pond cover of claim 5 wherein the cover is a waste treatment pond cover.

26. The pond cover of claim 5 wherein the means for linking and de-linking the panels includes an elongated member which passes through an opening in at least one panel.

27. The pond cover of claim 5 wherein the cover overlies a tank.

28. (Twice Amended) A method of manipulating a pond cover comprising the steps of:

forming a plurality of panels defining openings;

linking adjacent panels through adjacent openings with at least one loop,

the loop being oval-shaped; and

de-linking the plurality of panels.

29. The method of claim 28 wherein the step of forming further comprises the step of:

forming rectangular panels.

30. The method of claim 29 wherein the step of forming further comprises the step of:

forming panels that are approximately seven and one-half feet wide and approximately forty feet long.

31. The method of claim 28 wherein the step of forming further comprises the step of:

forming a plurality of panels from a geomembrane.

32. The method of claim 28 wherein the step of forming further comprises the step of:

insulating the panels.

33. The method of claim 32 wherein the step of insulating further comprises the step of:

sealing insulation inside the panels.

34. The method of claim 33 wherein the step of sealing further comprises the step of:

welding the insulating material inside the panels.

35. The method of claim 32 wherein the step of insulating further comprises the step of:

insulating with a rectangular layer of insulation.

36. The method of claim 28 wherein the step of linking further comprises the steps of:

defining openings in the panels; and

interconnecting the openings.

37.(Amended) The method of claim 28 wherein the step of forming further comprises the step of:

circumscribing the openings with grommets.

38.(Amended) The method of claim 28 wherein the step of forming further comprises the step of:

defining the openings adjacent to edges of the panels.

39.(Amended) The method of claim 28 wherein the step of linking further comprises the step of:

orienting the openings of adjacent panels in a vertical spaced relationship.

40.(Amended) The method of claim 28 wherein the step of linking further comprises the step of:

inserting a cable through at least one loop forming at least one fastener.

41. (Amended) The method of claim 40 wherein the step of linking further comprises the step of:

locking and unlocking the loop relative to the openings in the panels.

42. The method of claim 28 further comprising the step of:

anchoring the cover.

43. The method of claim 42 wherein the step of anchoring further comprises the step of:

anchoring the cover with an anchoring trench.

44. The method of claim 42 wherein the step of anchoring further comprises the step of:

anchoring the cover with at least one tie-down cable.

45. (Amended) The method of claim 40 further comprising the step of:

anchoring the cover with at least one tie-down cable, the tie-down cable passing through at least one fastener.

46. The method of claim 28 wherein the step of linking further comprises the step of:

orienting the panels in a partially overlapping relationship.

47. The method of claim 28 further comprising the step of:

supporting the cover above aqueous solutions.

48. The method of claim 28 wherein the step of linking further comprises the step of:

linking the panels together to cover a waste treatment pond.

REMARKS

This amendment is a revision/replacement of the Amendment filed on April 22, 1999, which was a revision/replacement of the Amendment filed on December 18, 1998 and is responsive to the Office Communication mailed July 14, 1999. This is further responsive to the outstanding Office Action issued September 18, 1998 in which claims 1-12, 14-16, and 18-48 were pending, claims 1, 2 and 4 were allowed and claims 3, 5-12, 14-16 and 18-48 were rejected. With this Office Action claims 3, 5, 17, 18, 28, and 37-41 have been amended. The patent sought to be reissued is believed to be in a condition for allowance. Applicant respectfully requests notice to that effect.

In the Office Communication mailed July 14, 1999, the Examiner re-asserted that the Amendment filed on December 18, 1998 proposes changes to the specification, claims and drawings that did not comply with 37 CFR 1.121(b). Applicant has carefully reviewed MPEP 1453 as recommended in said Office Action and believes that the present amendment comports therewith. Therefore, applicant believes the rejection under 37 CFR 1.121(b) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

The July 14, 1999 Office Action noted that claims 3 and 17 had been canceled and that a canceled claim could not be amended. Claim 3 was not canceled. Applicant believes the Office action should have noted claims 13 and 17 were canceled. This Amendment does not seek to amend any canceled claims.

The examiner further objected to the proposed drawings as including descriptive matter and not reference numerals in the Office Action mailed on January 21, 1999. Applicant requests the drawings submitted on April 22, 1999 be accepted. For ease of inserting reference numerals into the Detailed Description, applicant proposes a new first paragraph to the Detailed Description complete with reference numerals and finding antecedent basis in the Summary and Background of the Invention as originally filed. Applicant believes the objection to the drawings has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

The remaining comments are taken from the Amendment dated December 18, 1998 and are responsive to the Office Action mailed on September 18, 1998.

Indicates 2

Paragraph 2 of the Office Action requests identification of documents from the litigation that may be material to patentability. Applicant has submitted the prior art cited in such action with the original application for this reissue. Applicant has further submitted the description of the alleged infringer's product, namely Chamness, United States Patent 5,546,615. This is the information which the Applicant understands is being requested.

The drawings were objected to under 37 C.F.R. 1.83(a) as failing to show every feature of the claims. Specifically, the Examiner identified the "cable anchored at either of its ends to anchoring means", "the anchoring trench," "the cover supported above a pond," "aqueous solution" and "a tank" as missing from the drawings. Proposed new drawings are submitted with the present Amendment together with descriptive text for the specification. Applicant therefore believes that the objection under 37 C.F.R. 1.83(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 40, 41, and 45 were rejected under 35 U.S.C. §112 first paragraph. The Examiner noted that it appeared two distinct fasteners were being claimed, one a loop and one something else. Claim 40 has been amended to define the fastener to include the loop and something else such as a cable. In this manner, there is only one type of fastener being claimed and claim 40 should be allowable. Claims 41 and 45 depend from claim 40 and appeared to be rejected for that reason. Therefore, Applicant believes the present rejection of claims 40, 41 and 45 under 35 U.S.C. §112 has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claim 3 was rejected under 35 U.S.C. §112 second paragraph. Claim 3 was rejected due to repetition of the word "through" in a single term. To wit, in the last Amendment the word "through" was added after the word "disposed" on line 2 such that the term read "disposed through through". The repeat of the word "through" has been removed. The Office Action further provided that it was unclear how Claim 3 further limited claim 1. In an interview on December 18, 1998 it was agreed that claim 1 has at

least two interpretations on this point. Claim 1 includes the interpretation that the cable may be formed into a "u" shape with each elongation passing through only one grommet before being fastened into a loop, e.g., the cable passed through each grommet once. The other being that the grommets circumscribed the loop, e.g., the loop passed through each grommet more than once, such as is shown in Figure 1. Claim 3 further limits claim 1 to the second of these two interpretations. Applicant therefore believes the rejection of claim 3 under 35 U.S.C. §112 has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 5-7, 9-18, 23, 25, 26, 28-41 and 46 were rejected under 35 U.S.C. §102(a) as being anticipated by WO 93/11330. The Office Action stated that the adjacent panels are linked and delinked using grommets 15 and loops 17 as shown in Figure 5. Applicant has amended claims 5 and 28, the independent base claim of these rejected claims, to positively require "substantially oval-shaped loops interconnecting the adjacent panels through adjacent openings in the panels." Related language is found in claim 28. Applicant notes that a circle is a specialized oval. Cable 17 in WO/11330 is shown as an elongation, e.g., non-oval, passing through the panels. WO/11330 does not show loops such as those claimed. Accordingly, Applicant believes the rejection of claims 5-7, 9-18, 23, 25, 26, 28-41 and 46 under 35 U.S.C. §102(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 5-7, 9, 10, 12-19, 23, 25, and 26 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,590,714 to Walker. Paragraph 22 of the Office Action notes that Applicant's arguments concerning Walker's failure to show

interconnection of adjacent panels via a loop were deemed unpersuasive as the loop was not positively recited. With this Amendment, Applicant has positively recited the loop. For the reasons stated in the response dated June 9, 1998, Applicant reasserts that Claim 5 is allowable over Walker. Claims 6-7, 9, 10, 12-19, 23, 25, and 26 ultimately depend from Claim 5. Therefore applicant believes that the rejection of such claims under 35 U.S.C. §102(b) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 5-7, 9, 14, 15, 18-20, 22, 25, and 26 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,197,239 to Glynn et al. Note the comments made with regard to Walker, particularly with respect to paragraph 22 of the Office Action and the positive recitation of loops in Claim 5. For the reasons stated in the response dated June 9, 1998, Applicant reasserts that Claim 5 is allowable over Glynn et al. Claims 6-7, 9, 14, 15, 18-20, 22, 25, and 26 ultimately depend from Claim 5. Therefore applicant believes that the rejection of such claims under 35 U.S.C. §102(e) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 8, 11, and 20-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 4,590,174 to Walker. Claim 5 is believed to be allowable over Walker in view of the comments and claim Amendments described with regard to the rejection under 35 U.S.C. §102(b) based upon Walker. Claims 8, 11, and 20-22 ultimately depend from Claim 5 and are therefore believed to be allowable over Walker. Applicant submits that with the present Amendment the rejection of claims 8, 11, and

20-22 under 35 U.S.C. §103(a) has been overcome and should be withdrawn.

Applicant respectfully requests notice to that effect.

Claims 24 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 4,590,174 to Walker in view of U.S. Patent 3,038,171 to Bartolucci. Claim 5 is believed to be allowable over Walker and Bartolucci in view of the comments and claim Amendments described with regard to the rejection under 35 U.S.C. §102(b) based upon Walker. Like Walker, Bartolucci fails to show loops as claimed in claim 5. Claims 24 and 27 ultimately depend from Claim 5 and are therefore believed to be allowable over Walker and Bartolucci. Applicant submits that with the present Amendment the rejection of claims 24 and 27 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claims 28-39, 42-44, 46 and 48 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 4,590,174 to Walker in view of WO/11330. Claim 5 is believed to be allowable over Walker and WO/11330 in view of the comments and claim Amendments described with regard to the rejection under 35 U.S.C. §102(b) based upon Walker, and the rejection under 35 U.S.C. §102(a) based upon WO93/11330. Like Walker, WO/11330 fails to show loops as claimed in claim 28. Claims 29-39, 42-44, 46 and 48 ultimately depend from Claim 28 and are therefore believed to be allowable over Walker and WO/11330. Applicant submits that with the present Amendment the rejection of claims 28-39, 42-44, 46 and 48 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Claim 47 was rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of WO/11330 and Bartolucci. Walker and WO/11330 were offered to show all limitations except use to cover an aqueous solution or a tank. Bartolucci was offered to show the solution and tank. Claim 47 ultimately depends from claim 28. For the aforesaid reasons claim 28 is believed to be allowable over Walker and WO/11330. Like Walker and WO/11330, Bartolucci fails to show a loop connection. Applicant submits that with the present Amendment the rejection of claim 47 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Applicant respectfully requests notice to that effect.

Various changes have been made to the claims for clarity in defining the broad patent protection to which this applicant is entitled under the laws of the United States of America.

Applicant submits that all objections and rejections have been overcome and should be withdrawn and that the patent sought to be re-issued is in a condition for

allowance. Notice to that effect is respectfully requested. Any questions concerning this application may be directed to **N. Paul Friederichs at (612) 862-0517.**

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To: Examiner Robert Canfield

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From: N. Paul Friederichs / jai

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